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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,567	11/19/2001	Carla Arlene Turner		1189

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EXAMINER

VANATTA, AMY B

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,567

Applicant(s)

TURNER, CARLA ARLENE

Examiner

Amy B. Vanatta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, for example, "Combination Jacket and Tote Bag" or "Convertible Jacket and Tote Bag".

Claim Rejections - 35 USC § 112

2. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims should be numbered in consecutive order and each claim is to be one sentence only. Thus, applicant's first claim has been numbered as Claim 1 and applicant's second claim has been numbered as Claim 2.

"What I claim as my invention is" should not appear in the body of claim 1, but rather should appear immediately preceding claim 1. Claim 1 should begin with "A convertible article useful as...".

In claim 1, line 2, "to form" should read as "forming" so as to more clearly claim the structure.

Claim 1 recites "the back panel" (line 2), "the jacket" (line 2), "the top layer" (lines 2-3), and "the outerwear garment" (line 5) without antecedent basis. With respect to

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the lattermost phrase, the outerwear was previously set forth, but not the "outerwear garment".

Claim 2 recites "the mouth" (line 1) without antecedent basis. Also, in line 2, "garment" should read as "jacket" in order to maintain consistency of claim terminology and more clearly recite the claimed structure.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,700,409 to De Lott.

De Lott discloses a convertible garment useful as a jacket and a bag, wherein the jacket may be stored within the bag. The garment has a double layer of material forming the back panel of the jacket (see Figs. 2 and 3), the top layer (as viewed from the interior, as in Fig. 1) having a mouth opening (at 32) at the rear upper portion of the jacket (see Fig. 1). The back panel functions as an oversized pocket which, when turned inside out as shown in Fig. 3, receives the entire jacket therein (see Fig. 5).

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,502,155 to Itoi.

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Itoi discloses a convertible garment useful as an outerwear garment and a bag, wherein the outerwear may be stored within the bag. The garment has a double layer (5,8) of material forming the back panel of the jacket, the top layer (8) having a mouth opening at the rear upper portion of the jacket (see Fig. 1). The back panel functions as an oversized pocket (6) which, when turned inside out as shown in Fig. 2, receives the entire jacket therein. The article has strings (15A, 15B) which are threaded through the mouth of the pocket (through holes 17A, 17B) forming drawstrings to the extent recited in claim 2, and are used as straps when the garment is converted to the tote bag function.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,502,154 to Itoi.

Itoi discloses a convertible garment useful as an outerwear garment and a bag, wherein the outerwear may be stored within the bag. The garment has a double layer of material forming the back panel of the jacket (see Fig. 3), the top layer having a mouth opening (2) at the rear upper portion of the jacket (see Fig. 2). The back panel functions as an oversized pocket (7) which, when turned inside out as shown in Fig. 4, receives the entire jacket therein. The article has drawstrings (3,4) which are threaded through the mouth of the pocket and are used as straps when the garment is converted to the tote bag-function, as in claim 2.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 2 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,502,154 to Itoi in view of U.S. Patent No. 4,502,155 to Itoi.

Itoi '154 discloses a convertible garment useful as an outerwear garment and a bag, wherein the outerwear may be stored within the bag. The garment has a double layer of material forming the back panel of the jacket (see Fig. 3), the top layer having a mouth opening (2) at the rear portion of the jacket (see Fig. 2). The back panel functions as an oversized pocket (7) which, when turned inside out as shown in Fig. 4, receives the entire jacket therein. The article has drawstrings (3,4) which are threaded through the mouth of the pocket and are used as straps when the garment is converted to the tote bag function, as in claim 2.

The opening (2) of the pocket is formed in the rear panel of the jacket as shown in Fig. 2 and is disclosed as positioned "slightly below the stems of the sleeves" (col. 1, lines 47-49). This position appears to be in the "upper" portion of the jacket as recited in claim 1, however this would depend on the size and positioning of the sleeves and the overall length of the jacket. Assuming *arguendo* that the opening (2) is not in the upper portion of the jacket, it would have been obvious to position it in such a manner. Itoi

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'155 discloses a garment convertible to a bag and having an opening into the bag pouch on the rear portion of the garment. This opening (closed by zippers 9,11) is at the upper portion of the rear of the garment. Such a position allows for a larger sized pouch which extends over a longer portion of the garment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the opening (2) in the garment of Itoi '154 in the upper portion of the garment back, as shown by Itoi '155, in order to allow for a greater pocket length; furthermore, such a modification would have been an obvious choice of design since applicant has not disclosed that the exact position of the opening solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the pocket in any of a variety of vertical locations.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is (703) 308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Amy B. Vanatta
Primary Examiner
Art Unit 3765

abv
April 21, 2002